

w/p

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

FILED
DATE: 2-9-11
5:00 O'Clock P.M.
JEANNE HICKS, CLERK
BY: Rhondi HAGEN
Deputy

DIVISION PRO TEM B

JEANNE HICKS, CLERK

HON. WARREN R. DARROW

BY: R. Hagen, Deputy Clerk

CASE NO. V1300CR201080049

DATE: February 9, 2011

TITLE:

COUNSEL:

STATE OF ARIZONA,

Yavapai County Attorney

Sheila Polk/Bill Hughes

(Via OnBase),

(For Plaintiff)

(Plaintiff)

v.

JAMES ARTHUR RAY,

Thomas K. Kelly

(Via electronic mail)

(Co-Counsel for Defendant)

(Defendant)

Luis Li/Brad Brian /Truc Do/Miriam Seifter

MUNGER TOLLES & OLSON LLP

355 South Grand Avenue Thirty-Fifth Floor

Los Angeles, California 90071-1560,

(Co-Counsel for Defendant, *Pro Hac Vice*)

HEARING ON:

NATURE OF PROCEEDINGS

COURT REPORTER

TELEPHONIC PRETRIAL CONFERENCE

Mina Hunt

START TIME: 10:11 a.m.

APPEARANCES:

Bill Hughes, Co-Counsel for State

Detective Ross Diskin, Case Agent

Tom Kelly, Co-Counsel for Defendant

Luis Li, Co-Counsel for Defendant (Telephonically)

Miriam Seifter, Co-Counsel for Defendant (Telephonically)

Pam Moreton, Victim Services Representative (Telephonically)

The Court has received the waiver regarding Defendant's nonappearance for this hearing. Defense Counsel Kelly advises the Court that Defendant does in fact waive his appearance and that Counsel have authority to proceed in his absence. The Court addresses a clerical error regarding the date of Defendant's waiver. Defense Counsel Kelly confirms the clerical error.

The Court and Counsel discuss the process of reviewing Juror Questionnaires and the litigation regarding the same.

Counsel have stipulated to a list of Prospective Jurors that may be excused. The Parties' stipulation contains 40 Prospective Jurors, beginning with Badge #292687 and ending with Badge #300802. The Clerk is directed to attach a copy of the Stipulated list to the Minute Entry as an exhibit. The Court will review the list at a later time.

The Court notifies the Parties that Judge Hancock was excused as a Prospective Juror in this matter.

V1300CR201080049
STATE v JAMES ARTHUR RAY
February 9, 2011

The Court and Counsel review the individual requests to be excused from Jury Duty that were received by the Jury Commissioner. The Court notes the objections regarding excusal of Prospective Juror, Badge #301032.

IT IS ORDERED excusing Prospective Jurors, Badge #'s 292389 and 280314.

The Court and Counsel discuss the voir dire process.

Review of Juror Questionnaires resumes.

Defense Counsel Kelly renews Defense's motions argued on or about February 4th regarding striking for cause and hardship when applicable.

~~~Recess~~~

At 11:43 a.m. the hearing reconvenes.

Review of the Juror Questionnaires resumes.

~~~Noon Recess~~~

At 1:15 p.m. the hearing reconvenes.

With regard to the Motion to Reconsider, **IT IS ORDERED denying** the Motion as those jurors were previously excused and released from the admonition.

The Court and Counsel discuss sending the remaining Prospective Jurors the information regarding the lengthy trial fund. Counsel will be given an opportunity to review the information to be sent during a break today.

Counsel are advised of a request for a second media camera to be in the courtroom during trial. Counsel for State requests permission to respond to the request by tomorrow. Permission to respond is **granted** and any such response shall be submitted to the Court no later than this Friday.

Counsel for State makes a standing objection regarding Prospective Juror selection.

Review of the Juror Questionnaires resumes.

~~~Recess~~~

At 3:03 p.m. the hearing reconvenes.

The Court and Counsel discuss Prospective Jurors, Badge #s 302864 and 288732, and the possibility of conducting voir dire of these Prospective Jurors in a separate group, those that the Court has identified to be decided by the Court.

**IT IS ORDERED** the following Prospective Jurors will be **retained** in the jury pool at this time:

Report Date: 2/16/2011      Badge #'s: 302821, 297621, 271391, 298075, 276493, 290508, 291151, 275165, 292691, 288774, 281353, 296627, 304197, 287756, 294356, 293578, 292147, 303085, 267780, 290422, 292972, 275273, 271991, 296303, 292592, 288133, 289577, 289401, 296580, 295899, 294248, 302213, 300909, 304470, 283421, 281116, 276406, 272280, 304202, 301609, 284150, 299797, 270002, 288087, 296277, 267246, 301225

Report Date: 2/17/2011      Badge #'s: 296934, 274565, 292040, 276353, 296426, 273069, 290303, 294159, 295685, 289692, 301578, 296314, 302095, 294229, 292627, 281800, 288913, 291010, 299861, 272267, 295501, 290214, 297107, 295833, 286993, 293567, 292877, 278189, 299603, 291968, 297687, 299430, 272368, 266986, 270403, 282230, 287850, 277839

**IT IS ORDERED excusing** the following Prospective Jurors:

Report Date: 2/16/2011      Badge #'s: 300734, 280662, 301032, 281356, 273132, 296333, 295227, 269148, 274693, 306006, 281966, 300479, 300526, 281028, 275580, 297294

Report Date: 2/17/2011      Badge #'s: 287437, 296806, 293421, 295620, 303000, 305022, 295989, 287038, 302532, 288265, 291972, 302816, 292715, 301729, 299595, 273113, 297116, 284791

The Court retains authority to consider the law and make a decision regarding the excusal or retention of the following Prospective Jurors:

Badge #'s: 292628, 301396, 289810, 295503, 299539, 297523, 291945, 298017, 293158, 288284, 296498, 273479, 267778, 299562, 305674, 266844, 279486, 277016, 303181 (possibly), 298509, 276918, 285533, 287628, 289977 and 294905.

The Court and Counsel may voir dire the above Prospective Jurors as a special group separate from the main jury pool.

The Court and Counsel will review the Juror Questionnaire for Badge #290211 at a later date.

~~~Recess~~~

At 4:38 p.m. the hearing reconvenes.

IT IS ORDERED excusing the forty (40) Prospective Jurors listed in the Parties' Stipulated List attached to this Minute Entry as an Exhibit. The Jury Commissioner can notify those people by email, thanking them and releasing them from the admonition.

The Court directs the **Jury Commissioner** to:

- Inquire from Prospective Juror, Badge # 277638, the nature and specific medical limitations, specifically regarding driving. During the afternoon break, the Jury Commissioner contacted Prospective Juror, Badge #277638, and provided the requested information to the Court and Counsel. **IT IS ORDERED** said Prospective Juror is excused.
- Contact and advise Prospective Jurors Badge #s 302864, 288732, 266844 and 304862 that they may go on their trips, that the admonition remains in effect and that the Jurors shall report to and/or contact the Jury Commissioner upon their return for further instructions.
- Contact Prospective Juror #291503 and confirm what days he would miss from his nursing program.
- Contact Prospective Juror #303181 and advise the Prospective Juror that he/she is permitted travel however this Prospective Juror must report for Jury Duty on Thursday, before 5:00 p.m. to find out if he needs to be here the next day. The Jury Commissioner shall also advise the Prospective Juror that the admonishment remains in effect.
- Contact Prospective Juror, Badge # 269263, and advise the Prospective Juror that he/she is permitted to travel, that the admonishment remains in effect and to contact the Jury Commissioner upon return.
- Contact Prospective Juror, Badge #292274, and advise him/her to appear for Jury Duty on the 17th instead of the 16th.

IT IS ORDERED continuing this Pretrial Conference to Friday, February 11, 2011 at 10:00 a.m. to continue review of Juror Questionnaires and address other outstanding legal issues, with one day allotted.

Counsel for Defense Li addresses the Court regarding the State's late response to Defendant's Motion to Strike two experts. Discussion ensues. Counsel for State does not object to an extension of time for Defendant's Reply but does oppose striking the State's Response.

IT IS ORDERED that Defendant shall have through and including February 14, 2011 to file its Reply to the Motion regarding expert witnesses.

END TIME: 5:07 p.m.

THEREAFTER, off the record, the Clerk is directed to redact the Stipulated List. The Clerk shall seal the Stipulated List and maintain it in the Court file. The redacted copy of the Stipulated List shall be attached to the Minute Entry as an exhibit.

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)
Stone & Magnanini, Co-Counsel Brown Family, 150 John F Kennedy Pkwy, 4th Fl, Short Hills, NJ 07078
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)
Steptoe & Johnson, Counsel for KPNX Broadcasting Company (e)
Perkins, Coie, Brown & Bain, Counsel KTVK-TV, 2901 N. Central, Ste. 2000, Phoenix, AZ 85012-2788
Division PTB (e)
Jury Commissioner, Verde
Victim Services (e)
Court Administration
Jeanne Hicks, Clerk of Court (e)
Exhibit Clerk
Customer Service Supervisor, Verde / Records Supervisor, Verde

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| Juror Number |
|--------------------------|
| 292687 |
| 296434 |
| 290617 |
| 300735 300734 |
| 300023 |
| 286683 |
| 298309 |
| 272734 |
| 278449 |
| 288701 |
| 292743 |
| 298476 |
| 301442 |
| 295551 |
| 300953 |
| 274217 |
| 293938 |
| 298816 |
| 282135 |
| 299694 |
| 291825 |
| 282672 |
| 296919 |
| 269528 |
| 300422 |
| 288620 |
| 270727 |
| 289204 |
| 300617 |
| 302802 |
| 301231 |
| 292000 |
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| 290013 |
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| 304528 |
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| 300802 |